

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

OTIS JONES, )  
                  )  
                  )  
Movant,         )  
                  )  
                  )  
v.                 )         No. 1:07-CV-60-JCH  
                  )  
                  )  
UNITED STATES OF AMERICA, )  
                  )  
                  )  
Respondent.      )

**ORDER AND MEMORANDUM**

This matter is before the Court upon review of movant's "Response to Order to Show Cause [Doc. #4]."<sup>1</sup> Having carefully reviewed movant's response, the Court concludes that the instant action is time-barred under 28 U.S.C. § 2255(1) and is subject to summary dismissal. Movant has advanced no grounds to justify equitable tolling. See Cousin v. Lensing, 310 F.3d 843, 849 (5<sup>th</sup> Cir. 2002) ("mere attorney error or neglect is not an extraordinary circumstance such that equitable tolling is justified"); Lindo v. Lefever, 193 F.Supp. 2d 659, 663 (E.D.N.Y. 2002) (transfers between prison facilities, restricted access to the law library, and inability to secure court documents do not qualify as extraordinary circumstances).

Therefore,

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<sup>1</sup>On May 7, 2007, this Court entered an Order and Memorandum instructing movant to show cause as to why the Court should not dismiss the instant motion to vacate, set aside, or correct sentence as time-barred [Doc. #3].

**IT IS HEREBY ORDERED** that no order to show cause shall issue as to respondent, because the instant 28 U.S.C. § 2255 motion is time-barred.

**IT IS FURTHER ORDERED** that movant's motion pursuant to 28 U.S.C. § 2255 is **DENIED**.

An appropriate order shall accompany this order and memorandum.

Dated this 22nd day of May, 2007.

/s/ Jean C. Hamilton  
UNITED STATES DISTRICT JUDGE